

a\*63-15, 63-17

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 15 and Title 63, Chapter 17, relative to human speech and hearing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-17-103 is amended by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) "Board" means the board of examiners for speech pathology, audiology, and licensing hearing aid examiners.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 15, is amended by deleting such chapter in its entirety.

SECTION 3. Tennessee Code Annotated, Section 63-17-101, is amended by deleting such section in its entirety and by substituting instead the following:

This chapter shall be known and may be cited as the "Licensure Act for Speech Pathologists, Audiologists and Hearing Aid Dispensers".

SECTION 4. Tennessee Code Annotated, Section 63-17-103, is amended by adding the following new subdivisions thereto:

( ) "Apprentice licensee applicant" means any person who is registered with the board and is engaged in an approved licensing program, and who is sponsored by a hearing aid dispenser duly licensed in this state, and the apprentice licensee applicant shall meet the qualifications of this act;

( ) "Division" means the division of health related boards in the department of health;

( ) "Hearing aid" means any instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device;

( ) "Licensee" means any person duly licensed by the board to engage in the practice of dispensing and fitting hearing aids;

( ) "Practice of dispensing and fitting hearing aids" includes the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by any other means devised, and the consequent selection or adaptation for sale of hearing aids intended to compensate for hearing loss, including the appropriate instructions, consultations, suggestions, recommendations or opinions related to this practice, including the making of an impression of the ear, or an ear mold; and

( ) "Sell" or "sale" includes any transfer of title or of the right to use by lease, bailment or any other contract, either oral or written, except wholesale sales to distributors or dispensers.

SECTION 5. Tennessee Code Annotated, Section 63-17-104 is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) There is created a board of examiners of speech pathology, audiology, and hearing aid examiners.

SECTION 6. Tennessee Code Annotated, Section 63-17-104(a)(1), is amended by deleting the words and figures "six (6) members" and by substituting instead the words and figures "eleven (11) members".

SECTION 7. Tennessee Code Annotated, Section 63-17-104 is further amended by adding the following new subsections thereto:

( ) Two (2) members shall be qualified dispensers and fitters of hearing aids who have been duly licensed as such in Tennessee, and who are board-certified by the National Board for Certification - Hearing Instrument Sciences. Such members may be

appointed by the governor from a list of qualified nominees submitted by the Tennessee Hearing Aid Society.

( ) One (1) member shall be an audiologist who has been duly licensed as such in Tennessee. Such member may be appointed by the governor from a list of qualified nominees submitted by the Tennessee Speech and Hearing Association.

( ) One (1) member shall be a physician who has been duly licensed to practice medicine in Tennessee, and who has received certification from the American Board of Otolaryngology. Such member may be appointed by the governor from a list of nominees submitted by the Tennessee Medical Association.

( ) One (1) member shall be a person who has been a user of hearing aids for a period of at least five (5) years preceding his appointment to the board, and who shall never have been engaged in the practice of hearing aid dispensing and fitting, audiology or medicine. Such member shall be appointed by the governor.

SECTION 8. Tennessee Code Annotated, Section 63-17-105(a), is amended by adding the following new subdivisions thereto:

( ) Supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for a license;

( ) License persons who apply to the board and who are qualified to practice the fitting of hearing aids;

( ) Purchase and maintain or rent audiometric equipment and facilities necessary to carry out the examination of applicants for license;

( ) Issue and renew licenses;

( ) Deny, suspend or revoke licenses pursuant to this chapter;

( ) Appoint representatives to conduct or supervise the examination of applicants for license;

( ) Designate the time and place for examining applicants for license;

( ) Make and publish rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of this chapter;

( ) Require an annual calibration of audiometric equipment;

( ) Provide all examinations required by this chapter;

( ) Establish minimum requirements of test procedure and test equipment to be used in the fitting of hearing aids, also the retention of records of all fittings;

( ) Inspect the facilities or records, or both, of persons who practice the fitting and selling of hearing aids, upon a showing of probable cause of a violation of the provisions of this chapter; and

( ) Require lists, set standards and approve programs for trainees as provided in this act.

SECTION 9. Tennessee Code Annotated, Title 63, Chapter 17, Part 1, is amended by adding the following new sections thereto:

Section \_\_\_\_\_. (a) No person shall engage in the sale of or practice of dispensing and fitting hearing aids or display a sign or in any other way advertise or hold himself out as a person who practices the dispensing and fitting of hearing aids unless his principal place of business and residency are within this state, or unless suitable provisions are made for complete and appropriate follow-up services to persons in Tennessee to whom he has dispensed a hearing aid, and he holds a current, unsuspended, unrevoked license issued by the board as provided in this chapter.

(b) The license required by this section shall be kept conspicuously posted in his principal office or place of business at all times.

Section \_\_\_\_\_.(a) This chapter shall not apply to a person while such person is engaged in the practice of fitting hearing aids if such person's practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or nonprofit organization, which is primarily supported by voluntary contributions, unless it sells hearing aids.

(b) This chapter shall not be construed to prevent any person who is a medical or osteopathic physician licensed to practice by the state medical board from treating or fitting hearing aids to the human ear.

(c) It is lawful for any person who is listed as an apprentice licensee applicant with the board office, and who is under the direct supervision of a sponsoring licensed hearing aid dispenser, to perform any of the services or acts included in the definition of hearing aid dispensing and fitting as contained in this chapter; provided, that such person does so under the direct supervision of the licensed hearing aid dispenser and with the licensed dispenser making final selection and fitting to the client. No licensed dispenser shall supervise more than two (2) such apprentice licensee applicants or apprentice licensees combined at the same time.

Section \_\_\_\_\_. (a) Applicants must pass a state written and practical proficiency test for the apprentice license.

(b) The apprentice licensee shall function under the direct supervision of the sponsoring licensed hearing aid dispenser for a period of at least ninety (90) days after passage of the board proficiency test, and during the ninety-day period, the sponsoring licensed dispenser must make the final selection and fitting of the hearing aid.

(c) The apprentice license will remain in effect no longer than one (1) year and cannot be renewed.

(d) Applicants for an apprentice license shall pay the board a nonrefundable examination fee as set by the board.

Section \_\_\_\_\_. Applicants who wish to fit hearing aids must successfully complete the following:

(1) Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:

(A) Basic physics of sound;

(B) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders; and

(C) Structure and function of hearing aids;

(2) Tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:

(A) Pure tone audiometry, including air conduction testing and bone conduction testing;

(B) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;

(C) Effective masking;

(D) Recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy;

(E) Selection and adaptation of hearing aids and testing of hearing aids;

(F) Taking earmold impressions; and

(G) Other skills as may be required for the fitting of hearing aids; and

(3) Tests of knowledge of the provisions and requirements of this chapter.

(b) The tests under this section shall not include questions requiring a medical or surgical education.

Section \_\_\_\_\_. The board may, in its discretion, license as a hearing aid dispenser, without examination, on the payment of a fee as set by the board, an applicant who is a hearing aid dispenser, certified, registered or licensed under the laws of another state or country, if the applicant's qualifications for certification, registration or licensure meet the licensure requirements in force in this state upon the date of his application for certification, registration or licensure in this state.

Section \_\_\_\_\_. Each licensee shall notify the board of any change of address of his place of business, within thirty (30) days of such change. Failure to give such notice shall be deemed just cause for disciplinary action by the board.

Section \_\_\_\_\_. (a) Within thirty (30) days of the date of delivery, any purchaser of a hearing aid from a licensee is entitled to return the hearing aid for any reason; provided, that such aid is returned in satisfactory condition, and such purchaser shall pay only reasonable charges for the hearing aid and related services. Such return privileges apply only to a first-time purchaser of a hearing aid.

(b) Charges to be imposed upon return of a hearing aid as provided in subsection (a) shall be clearly stated in the bill of sale.

(c) This section shall not be construed to supersede any duly promulgated regulation issued by the federal trade commission.

Section \_\_\_\_\_. Any person sponsoring an apprentice licensee and/or apprentice licensee applicant under the provisions of this chapter shall be held responsible for the acts or omissions of his apprentice licensee and/or apprentice licensee applicant within the course and scope of his employment, during the apprenticeship, as well as his employees.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.

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